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AM 2009-045

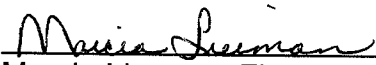
PUBLIC HEARING TO CONSIDER THE WESTERVELT COMPREHENSIVE PLAN AMENDMENT AND REZONE


Agenda Date: Town Board Meeting: May 26, 2009

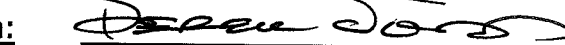
Attachments:

- a. Project description
- b. PCR 2009-05A Approval of the Comprehensive Plan Amendment
- c. PCR 2009-06A recommending approval of the Zoning Amendment
- d. Draft Planning Commission Minutes from May 5, 2009
- e. Ordinance accepting Comprehensive Plan Amendment
- f. Zoning Resolution
- g. Zoning Ordinance
- h. Vicinity Map
- i. 11x17 drawing of the Comprehensive Plan Amendment
- j. 11x17 drawing of the Zoning Map

Fiscal Note: None noted


Marcia Lierman, Finance Director

Submitted by: 
Todd Tucker, Staff Planner

Approved for Presentation: 
Derek Todd, Town Administrator

AV Use Anticipated Projector ☐ Yes ☐ Laptop ☐ Yes ☐

Certification of Board Approval:

Nanette Fornof, Town Clerk

Date

Summary Statement: The applicant has requested approval to amend the Comprehensive Plan and to rezone the 133.7 acre site located at the northwest corner of Tipple Parkway and

Silver Birch Boulevard to provide for Business Light Industrial and Employment (C-E) related development.

Detail of Issue/Request:

Applicant / Owner: Wallace H. Grant and Wallspring, LLC, and WH Grant Enterprises, LLC.

Agent: JLB Engineering Consultants
James Blankenship, PE

Surrounding Land Uses and Zoning:

North Hinkle Farm Subdivision, undeveloped, Town of Frederick - R1

South Undeveloped Town of Frederick – R2

East Residential Unincorporated Weld County - Agricultural

West Undeveloped Town of Frederick – PUD

Discussion: The 133.7 acre site was zoned PUD when it was annexed in 1995, however there are no development or use parameters associated with the existing PUD Zoning. The Comprehensive Plan has designated the site Mixed Use Residential and the adjacent properties are designated for Employment, Medium Density Residential, and Mixed Use Residential purposes. To promote business related zoning that is compatible with the surrounding development and to facilitate economic development within the Town, the applicant has requested that the site be re-designated for Business Light Industrial and Employment (C-E) uses.

Referral: The application was referred per the provisions of the Land Use Code. All referral responses are on file with the Planning Department.

The William K. Warren foundation has indicated that they have mineral interests that need to be preserved. Note that mineral interests are typically addressed through a surface use agreement which is required prior to recordation of a subdivision plat for a property. Since this application does not involve a subdivision, these comments are advisory.

No other referral indicated conflicts with this request.

Public Notice: The public hearing was noticed in accordance with the provision of the Land Use Code.

Review Criteria: Section 4.7.10.b of the *Land Use Code* sets the review criteria for amendments to the Comprehensive Plan; while Section 4.7.2.d of the *Land Use Code* sets the review criteria for amendments to the official zoning map:

4.7.10.b. Review criteria. The Comprehensive Plan may be amended pursuant to the following criteria:

- (1) The amendment improves the implementation of one or more of the goals, policies, and strategies of The Town of Frederick Comprehensive Plan, 2006.
- (2) The amendment will not pose a detrimental impact on existing or planned Town facilities, services or transportation facilities.
- (3) The amendment will not interfere with the existing or emerging land use patterns and densities/intensities of the surrounding neighborhoods as depicted on the Land Use Plan and contained within the Town of Frederick Comprehensive Plan, 2006.
- (4) The amendment will not interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services.

The proposed amendment to the comprehensive plan is to convert 133.7 acres from the Mixed Use Residential designation to 76.2 acres Light Industrial (west half) and 56.5 acres to Employment (C-E) (east half). Currently, the subject site and areas to the north and east are designated for Mixed Use Residential development which encourages a mixture of residential and commercial development. The areas to the west are designated for Employment uses while south of Tipple Parkway is designated for Medium Density Residential.

Goal 13 of the Comprehensive Plan encourages desirable Industrial Development within the Town. In addition, the Frederick West Business Center is northwest of the proposed development. Therefore, the request is also consistent with Strategy 13.1.1 of the Comprehensive plan which is to locate industrial (uses) in proximity to other similar land uses. Furthermore, the amendment will not pose a detrimental impact on existing or planned Town facilities, services or transportation facilities; nor will it interfere with the existing or emerging land use patterns and densities/intensities of the surrounding neighborhoods as depicted on the Land Use Plan and contained within the Town of Frederick Comprehensive Plan, 2006; and the proposed amendment will not interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services.

In terms of general planning principals, the proposed configuration (Industrial on the west side of the property with Employment on the east side of the property adjacent to future residential or mixed use residential sites) would tend to buffer adjacent future residential or mixed use residential uses from the proposed Light Industrial Zone. Note that screening, landscaping, activities, use patterns, and ancillary impacts (such as noise, odors, traffic, etc.) are less likely to conflict with neighboring residential uses in the Employment district or designation.

Upon review of the application and criteria, the request conforms to all of the requirements for approval.

4.7.2.d. Review Criteria. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

- (1) To correct a manifest error in an ordinance establishing the zoning for a specific property;
- (2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;
- (3) The land to be rezoned was zoned in error and as presently zoned is inconsistent

with the policies and goals of the Comprehensive Plan;

- (4) **The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;**
- (5) **The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or**
- (6) **A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.**

The applicant indicates that the request is consistent with the first five of the requisite criteria as noted in the attached project description and criteria analysis. Criteria 6 does not apply.

Note that the subject area is currently zoned PUD, with no specificity or detail and no underlying zoning district. In order to promote development of the site the applicant has requested approval to zone the west half of the property Business Light Industrial (BLI) and the east half Employment District (C-E). Both of these zoning designations have specific uses and requirements associated with them to ensure compatibility and minimize impacts to adjacent development as noted in Articles 2 and 3 of the Land Use Code.

To the extent that the request establishes a legitimate zoning district on the property, it does correct a manifest error. In addition, the request to rezone the area is due to changing conditions in a particular area and promotes development. Since PUD is not recognized in our Land Use Code as an underlying zoning district or defined in the Comprehensive Plan, the request will correct the error and promote consistency with the Comprehensive Plan. Due to the current economy, it may be in the interest of the Town to promote Business Light Industrial (BLI) and Employment (C-E) related development.

Upon review of the application and criteria, the request conforms to the following criteria, (1), (2), (3), and (5). Note that for approval, the request need only conform to one of the requisite criteria.

Planning Commission: The Planning Commission considered the request on May 5, 2009 and approved the proposed Comprehensive Plan Amendment (PCR-09-05A) and the Rezone (PCR09-06A) as proposed in a four to one vote for each motion. The dissenting vote expressed concerns about traffic from a commercial or industrial site impacting adjacent residential neighborhoods.

Legal/Political Considerations: None noted.

Alternatives/Options: Via separate resolutions and ordinances the Board of Trustees may consider several options regarding the request:

- ☐ Approve the request finding that it is substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan;

- ☐ Deny the request finding that the request does not substantially achieve conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Approve the request finding that it would be substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan if certain conditions are met;

Financial Considerations: None noted.

Staff Recommendation: Staff and the Planning Commission recommend approval of the proposed Comprehensive Plan Amendment with the attached Ordinance and approving the resolution and ordinance related to the Rezone as proposed.